

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Ovard Aloise Ambroise,

Plaintiff,

v.

Desert Financial,

Defendant.

No. CV-24-03254-PHX-JFM

**ORDER**

This matter was assigned to Magistrate Judge James F. Metcalf. (Doc. 3). On December 10, 2024, the Magistrate Judge filed a Report and Recommendation with this Court.<sup>1</sup> (Doc. 10). Plaintiff timely filed a Response to the Magistrate Judge's Report and Recommendation on December 17, 2024. Having reviewed the Report and

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<sup>1</sup> This case is assigned to a Magistrate Judge. However, not all parties have consented to the jurisdiction of the Magistrate Judge. Thus, the matter is before this Court pursuant to General Order 21-25, which states in relevant part:

When a United States Magistrate Judge to whom a civil action has been assigned pursuant to Local Rule 3.7(a)(1) considers dismissal to be appropriate but lacks the jurisdiction to do so under 28 U.S.C. § 636(c)(1) due to incomplete status of election by the parties to consent or not consent to the full authority of the Magistrate Judge,

**IT IS ORDERED** that the Magistrate Judge will prepare a Report and Recommendation for the Chief United States District Judge or designee.

**IT IS FURTHER ORDERED** designating the following District Court Judges to review and, if deemed suitable, to sign the order of dismissal on my behalf:

Phoenix/Prescott: Senior United States District Judge Stephen M. McNamee

1 Recommendation and Plaintiff's Response thereto, the Court orders as follows.

## 2 STANDARD OF REVIEW

3 When reviewing a Magistrate Judge's Report and Recommendation, this Court  
 4 "shall make a de novo determination of those portions of the report . . . to which objection  
 5 is made," and "may accept, reject, or modify, in whole or in part, the findings or  
 6 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C); see also  
 7 Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991). The relevant provision of the  
 8 Federal Magistrates Act, 28 U.S.C. § 636(b)(1)(C), "does not on its face require any  
 9 review at all . . . of any issue that is not the subject of an objection." Thomas v. Arn, 474  
 10 U.S. 140, 149 (1985); see also Wang v. Masaitis, 416 F.3d 992, 1000 n.13 (9th Cir. 2005)  
 11 ("Of course, de novo review of a R & R is only required when an objection is made to the  
 12 R & R."); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc)  
 13 ("Neither the Constitution nor the [Federal Magistrates Act] requires a district judge to  
 14 review, de novo, findings and recommendations that the parties themselves accept as  
 15 correct."). Likewise, it is well-settled that "failure to object to a magistrate judge's factual  
 16 findings waives the right to challenge those findings." Bastidas v. Chappell, 791 F.3d  
 17 1155, 1159 (9th Cir. 2015) (quoting Miranda v. Anchondo, 684 F.3d 844, 848 (9th Cir.  
 18 2012)).

## 19 DISCUSSION

20 The Magistrate Judge has recommended that Plaintiff's Complaint be dismissed  
 21 without prejudice and without leave to amend due to Plaintiff's failure to show that  
 22 subject matter jurisdiction is proper. The Magistrate Judge, in evaluating Plaintiff's  
 23 claims for civil rights violations pursuant to 42 U.S.C. § 1983, conspiracy pursuant to 42  
 24 U.S.C. § 1985, discriminatory and predatory lending, and fair debt collection, has  
 25 determined that Plaintiff has presented no cognizable basis for federal question  
 26 jurisdiction in Plaintiff's Complaint, (Doc. 1), or Plaintiff's response to the Magistrate  
 27 Judge's Order to Show Cause. (Doc. 11).

28 Plaintiff's Response to the Magistrate Judge's Report and Recommendation is

1 largely unresponsive to the deficiencies stated in the Report and Recommendation.  
2 Instead, Plaintiff recounts the procedural history of this case, inexplicably introduces “the  
3 ‘mens rea’ theory[,]” and generally lists the elements of a claim under the Equal Credit  
4 Opportunity Act. (Id.) It appears to the Court that Plaintiff has raised no specific  
5 objection to any portion of the Report and Recommendation. Because the Federal  
6 Magistrates Act does not require review of “any issue that is not the subject of an  
7 objection,” the Court finds it appropriate to adopt the Magistrate Judge’s Report and  
8 Recommendation without further review. Accordingly, the Court hereby incorporates and  
9 adopts the Magistrate Judge’s Report and Recommendation.

### 10 CONCLUSION

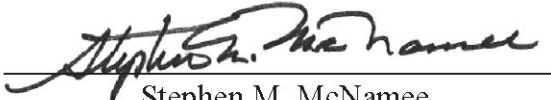
11 Accordingly, for the reasons set forth,

12 **IT IS ORDERED adopting** the Report and Recommendation of the Magistrate  
13 Judge. (Doc. 10).

14 **IT IS FURTHER ORDERED dismissing** Plaintiff’s Complaint, (Doc. 1),  
15 without prejudice and without leave to amend.

16 **IT IS FURTHER ORDERED directing** the Clerk of Court to close this case.

17 Dated this 6th day of January, 2025.

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20 Stephen M. McNamee  
21 Senior United States District Judge  
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